

SENATE BILL 962
By Kyle

AN ACT to amend Tennessee Code Annotated, Title 67, relative to
taxation of leased personal property.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 67-5-502(c), is amended by deleting
the subsection in its entirety and by substituting instead the following:

(c) Leased personal property used by a public utility company shall be assessed
to the public utility company unless such property is the subject of a lawful agreement
between the lessee and a local government for payments in lieu of taxes.

SECTION 2. Tennessee Code Annotated, Section 67-5-901(b), is amended by deleting
the subsection (b) in its entirety and by substituting instead the following:

(b) "Inventories of merchandise held by merchants and businesses for sale and
exchange" includes tangible personal property held for lease or rental, but does not
include such property in the possession of a lessee.

SECTION 3. Tennessee Code Annotated, Section 67-5-904, is amended by deleting the
section in its entirety and by substituting instead the following:

(a)

(1) For the purpose of locating leased property, it is the further duty of the taxpayer to list fully on a schedule provided by the assessor all tangible personal property that is leased by the taxpayer for the conduct of the taxpayer's business.

(2) Leased property shall include equipment, machinery, and all tangible personal property used in the conduct of, or as a part of, the taxpayer's business including, but not limited to, the following:

(A) Equipment that is leased only, not sold;

(B) Equipment that is leased at nominal rent or loaned under certain circumstances;

(C) Equipment that is leased and not permitted to be sold;

(D) Leased coin-operated machines and devices;

(E) Equipment that is placed on location;

(F) Vehicles, automobiles, trucks;

(G) Furniture; and

(H) Electronic equipment.

(b)

(1) The schedule shall list the type of property; fully describe such property; state the amount of monthly rental paid on each item; and the name, location, and address of the lessor of such leased equipment.

(2) Any tangible personal property which is not reported as provided herein, and which is discovered on the premises of any taxpayer, shall be prima facie deemed the property of such taxpayer, and shall be so regarded and assessed by the assessor. However, such presumption may be overcome by the taxpayer filing the schedule required herein, and supplying to the assessor or to the board of equalization the name and address of the true owner of the property.

(c) The lessor or owner of leased tangible personal property that is located in a taxing jurisdiction shall be required to file with the assessor of property a separate schedule listing and describing each item of leased property; its make and model number, if any; the year of its manufacture; the name of the party to whom leased; the address where such leased property is located; the advertised retail price and initial costs of the leased property; the rental charged for its use; and its actual value as of the assessment date; and such other information as may be required by the assessor.

(d) Regardless of any contract between the lessor and lessee as to who shall pay the taxes, it shall be the duty of the lessor or owner of the leased property to report to the assessor any leased property. The leased personal property shall be assessed to the lessor as the true owner of the property.

SECTION 4. Tennessee Code Annotated, Section 67-5-2003(a), is amended by deleting the language "However, leased personal property assessed to a lessee shall not be distrained and sold pursuant to this section."

SECTION 5. Tennessee Code Annotated, Section 67-5-2102(a), is amended by deleting the language "However, there shall be no lien against leased personal property assessed to a lessee."

SECTION 6. This act shall take effect January 1, 2004, the public welfare requiring it.